UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,809	11/13/2003	Alexander G. MacInnis	51374/SAH/B600	7879

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EXAMINER
LUU, MATTHEW

ART UNIT	PAPER NUMBER
2676	

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/712,809	MACINNIS ET AL.
	Examiner	Art Unit
	LUU MATTHEW	2676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>08 March 2004</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>35-52</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>35-52</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/9/04; 12/16/04; 2/4/05 ; 6/15/04</u>

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____ .

U.S. Patent and Trademark Office

PTOL-326 (Rev. 1-04)   Office Action Summary   Part of Paper No./Mail Date 20050530

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 35-52 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,570,579 (hereinafter '579). Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 35-52 of the present invention are broader than claims 1-4 of U.S. Patent No. 6,570,579.

Patent No. 6,570,579	Application No. 10/712,809
Claim 1: An integrated circuit comprising: ...a display engine for blending a plurality of graphics layers using alpha values; and wherein the graphics data is spatially processed independently of the video data prior to blending,	Claim 35: A method of blending a plurality of image layers comprising: organizing the plurality of image layers upper image layers and at least one lower image layer;

wherein the display engine blends a plurality of graphics images...into a blended graphics image and combines a plurality of alpha values into a plurality of composite alpha values, and the video compositor blends the blended graphics image with video included in the video data, and ˙

wherein the plurality of graphics images are blended one at a time using the plurality of alpha values to form the blended graphics image.

combining a plurality of alpha values... into a plurality of composite alpha values; and

compositing the blended upper image layer and the at least one lower image layer using the plurality of composite alpha values.

Claim 4: A method of blending graphics data and video data...comprising the Steps of:

combining a plurality of alpha values into a plurality of composite alpha values,

wherein the step of blending...the plurality of graphics images into a blended graphics image, and the

step of blending the graphics data

and the video suing the plurality

of composite alpha values, and

wherein the step of combining a

plurality values into a plurality of

composite alpha values

comprising the steps of multiplying

(1-alpha value) of an alpha value

associated with each pixel of <u>a first</u>

<u>graphics image</u>…each pixel of

<u>a second graphics image</u>,… and

multiplying the product of each

multiplication by an alpha value

associated with each pixel of <u>a</u>

<u>third graphics image</u>.

       The only difference between the disclosure of the U.S. Patent No. '597 and the

claimed invention is that the claim requires "organizing the plurality of image layers

upper image layers and at least one lower image layer".

       However, since claim 1 of the Patent No. '597 recites "wherein the graphics data

is spatially processed independently of the video data prior to blending" and "wherein

the plurality of graphics images are blended one at a time using the plurality of alpha

values to form the blended graphics image", it would have been obvious to a person of ordinary skill in the art to recognize that the plurality of graphics images can be considered as the upper image layers, and whereas the video image can be a lower image layer. Furthermore, it is well known in the art that a Z-buffer can determine the order of the image layers form top most to bottom most layers.

The claim 4 of Patent No. '597 also recites "wherein the step of combining a plurality values into a plurality of composite alpha values comprising the steps of multiplying (1-alpha value) of an alpha value associated with each pixel of a first graphics image...each pixel of a second graphics image,... and multiplying the product of each multiplication by an alpha value associated with each pixel of a third graphics image."

Furthermore, omission of element and its function in combination is obvious expedient if remaining elements perform same function as before. In re KARLSON (CCPA) 136 USPQ 184 (1963).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-Horiuchi (6,470,100) discloses (Figs. 2-5) an image composing part (28) for composing a plurality of image layers (26).

-O'Connor et al (5,638,499) disclose (Fig. 9) object layers (layer i-1) to be added with the single layer object (layer i).

-Blank (5,687,306) discloses (Fig. 4h) a composition of the Z-depth of image

layers (Z0-Z4).

-Otake et al (5,708,457) disclose (Fig. 1) a composite circuit (76) for compositing

a moving picture (34) and a background picture (32). This composite circuit also

includes a transparency detecting circuit (78). Otake et al further disclose (Fig. 3) a

priority control circuit (46 and 54).

-Tsujimoto et al (5,625,764) disclose (Fig. 14) the weighted average circuits (111-

113) for blending the input image A and input image B.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to LUU MATTHEW whose telephone number is (571) 272-

7663. The examiner can normally be reached on Flexible Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, BELLA MATTHEW can be reached on (571) 272-7663. The fax phone

number for the organization where this application or proceeding is assigned is 703-

872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

M. Luu

**MATTHEW LUU
PRIMARY EXAMINER**